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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-first session

SUMMARY RECORD OF THE 1533rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 12 August 2002, at 10.00 a.m.

Chairman: Mr. DIACONU

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The meeting was called to order at 10.20 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Fourteenth meeting of the chairpersons of the human rights treaty bodies

1. The CHAIRMAN, reporting on the fourteenth meeting of the chairpersons of the human rights treaty bodies held in June 2002, said that the chairpersons had been addressed by the United Nations High Commissioner for Human Rights and had held meetings with the Expanded Bureau of the Commission on Human Rights, representatives of the United Nations specialized agencies and non-governmental organizations (NGOs), and the mandate-holders of special procedures of the Commission on Human Rights. They had been briefed by the secretariat on the follow-up to the World Conference Against Racism and the activities of the Anti-Discrimination Unit subsequently established within the Office of the High Commissioner for Human Rights. The chairpersons had described recent developments in the work of their respective committees. He had reported in particular on the general recommendation adopted by the Committee pursuant to the Durban Conference, on the manner in which the Committee would be examining States parties' reports in the light of that Conference, on the Committee's statement on terrorism and human rights, and on the Committee's forthcoming thematic discussion on descent. The chairpersons had also met representatives of States parties, as a result of which he had decided that the Committee should consider convening a meeting with States parties in order to clarify some of the issues raised.

2. The chairpersons had made the following recommendations, which were mainly procedural: an entire day should be set aside during the chairpersons' fifteenth meeting for an informal consultation with States parties, with a possible focus on a limited number of issues; there should be an inter-committee meeting every two years during which a given topic would be discussed; the chairpersons of the six human rights treaty bodies should be formally invited to participate in the sessions of the Commission on Human Rights; future meetings with United Nations bodies and organizations and with NGOs should likewise be limited to certain topics; the secretariat was called upon to provide more support, particularly in the field of information technology; and there should be closer cooperation with the Sub-Commission on the Promotion and Protection of Human Rights. An advance copy of the report of the meeting was available to the Committee for comment.

Inter-committee meeting of human rights treaty bodies

3. The CHAIRMAN said that the first inter-committee meeting of human rights treaty bodies held in June 2002 and attended by three members of each committee had made rather more substantive recommendations to the human rights treaty bodies. He drew attention to the points of agreement reached by participants, contained in an informal document before the Committee. Concerning periodicity of reporting, the recommendation that States parties should report in strict compliance with the periodicity set out in the relevant treaty, meaning that combined reports should be accepted only in exceptional circumstances had prompted his comment that, in the case of the Committee on the Elimination of Racial Discrimination, that would be virtually impossible owing to its two-year reporting requirement. If all States parties were to comply strictly with that requirement, the Committee would find itself swamped.

4. In response to various recommendations on ways in which the treaty bodies should collaborate more closely, he observed that in some cases the Committee already proceeded in that manner; in others, compliance might be difficult for want of time. Among the other recommendations addressed specifically to the treaty bodies, some - such as criteria or procedures for examining State party reports in the absence of a State party representative, for examining the situation in a State party whose report was long overdue, or for establishing a dialogue with States parties failing to comply with their reporting obligations - were already dealt with by the Committee under procedures that had proved effective. He felt that more could be done to comply with the recommendation that NGO submissions should be made available to States parties prior to consideration of their reports. A point should be made of furnishing such information to the permanent missions.

5. On the question of pre-sessional working groups to compile lists of questions and issues, he was in favour on requesting the convening of a pre-sessional working group or meeting of the whole, and invited members' comments.

6. With regard to the concluding observations, after drawing attention to the recommendations on their content he said that it had been emphasized that they should reach the State party concerned promptly, and in time to pre-empt such information being disseminated through other means, as there had been complaints about media releases.

7. Ms. PROUVEZ (Secretary of the Committee) assured the Committee that in future the concluding observations would be dispatched on the Monday following the Committee's final meeting on Friday, after checking and editing.

8. After drawing attention to the remaining recommendations of the inter-committee meeting, the CHAIRMAN said that its next meeting was scheduled to take place in 2003 when the theme for discussion would be non-discrimination, which was obviously of particular concern to the Committee.

9. He invited members of the Committee to consider the following proposals: that a pre-sessional working group or meeting of the Committee as a whole should be convened to formulate a list of questions to submit to States parties; that a session of the Committee should be convened in New York; and that States parties should be invited to participate in a day-long discussion on the Convention during 2003.

10. Mr. ABOUL-NASR expressed support for the proposals.

11. Mr. HERNDL said that the Advisory Committee on Administrative and Budgetary Questions (ACABQ) should be apprised of the number of States parties that had difficulty in sending delegations to Geneva. Since most of the States parties concerned were from the Latin American and Caribbean region, the support of that regional group might perhaps be sought in pressing for sessions of the Committee to be held in New York. On the matter of pre-sessional arrangements to formulate lists of questions for States parties, logistical problems suggested themselves: should such a mechanism involve all the country rapporteurs or would it be simpler to establish a working group? As to discussions with States parties, he would appreciate clarification on what exactly it was proposed to discuss. Thematic debates were in a

separate category, and in any event should not take place annually, but it seemed that the only other questions that could usefully be broached were technical issues such as periodicity of reporting, lateness of reports, etc. There was also a danger that States parties might try to dictate the agenda.

12. The CHAIRMAN said that such discussions should focus on guidelines regarding the contents of reports and the encouragement of dialogue between staff at permanent missions and members of the secretariat. It was also conceivable that States parties would have questions for the Committee.

13. Mr. PILLAI said that it was right that most of the recommendations in the report of the chairpersons of the human rights treaty bodies should focus on procedures, since the system was still in evolution. With reference to the fifth joint meeting between chairpersons of treaty bodies and special procedures mandate-holders, due to be held in June 2003 and dedicated to the topic of globalization and its impact upon the various mandates of the special procedures and treaty bodies, he would appreciate clarification as to whether economic globalization was the intended topic of debate, or whether the discussion would focus on the international system for the promotion and protection of human rights. The Committee might wish to consider asking NGOs whether they had been involved in the preparation of State party reports. With reference to one of the recommendations made by the first inter-committee meeting, did not the Committee already allow for consolidation of outstanding reporting obligations to address the backlog of reports awaiting review? And finally, the secretariat should provide a list of the countries that could not afford to send a delegation to Geneva. If they were genuinely in favour of attending a session in New York, the onus should be on them to press for such a meeting.

14. Mr. ABOUL-NASR recalled that article 10, paragraph 4, of the Convention specified that meetings of the Committee should normally be held at United Nations Headquarters.

15. The CHAIRMAN said that he doubted whether the countries that could not afford to send a delegation to Geneva were particularly anxious to submit their reports to the Committee. On the question of pre-sessional working arrangements, his personal opinion was that it would be more useful to constitute a small working group. Discussions with States parties should first and foremost be treated as an opportunity to share and exchange information. The planned debate on globalization would focus solely on the impact of economics on human rights, the term "globalization" should not be taken as referring to the international human rights system as a whole.

16. Mr. THORNBERRY agreed that some kind of pre-sessional mechanism would be useful in drawing up a list of questions, although he personally would find it difficult to attend such a meeting. He recalled that a letter on the question of meeting in New York had been forwarded after the March 2002 session. As Rapporteur, he stressed the importance of reviewing and finalizing the Committee's concluding observations after the session before dispatching them to States parties.

17. Mr. KJAERUM said that, from the logistical point of view, a working group would seem to be the most effective pre-sessional mechanism. On the question of meeting in New York, he seemed to remember that it was the long-held view of the Committee that occasional sessions at Headquarters would be valuable and he himself endorsed that view. On meetings with States parties, it was clear there were a number of procedural issues which needed clarification and could usefully be raised in such a forum.

18. Mr. de GOUTTES said that a discussion with States parties would enable them to voice their concerns and in the process clear up misunderstandings and defuse recriminations. He was of the view that obtaining authorization for a session in New York was something of a lost cause owing to tight budgetary constraints. On the matter of pre-sessional meetings, it would be helpful to ascertain who would be able to attend and who would not. Lastly, the Committee needed to set an example to States parties on follow-up, since it had a tendency to multiply initiatives and then quietly forget about them. Examples were the early warning and urgent action procedure, the question of liaison with other human rights bodies, and the statement adopted by the Committee in March 2002 on counter-terrorism measures and human rights.

19. Mr. LINDGREN ALVES said that the suggestions made by the Chairman were all good ideas, but the Committee needed to take account of budgetary realities. Of course everybody was in favour of a session in New York, but how much would it actually cost? If it could be established that the cost was not exorbitant, a proposal could be put forward to combine a session at Headquarters with a discussion with States parties. He wondered whether many Committee members would be able to attend pre-sessional meetings; he personally would be unable to participate.

20. Mr. TANG Chengyuan said that logistical and financial difficulties would probably scuttle any initiatives to hold pre-sessional meetings, or regular sessions in New York. What the Committee might propose, however, was to hold occasional sessions in New York, perhaps every two or three years, for the benefit of small countries without missions in Geneva. He agreed that it was important to establish a dialogue with States parties, if only to clear up misunderstandings and explain the Committee's reasoning on certain issues.

21. Mr. RESHETOV said he failed to understand, given the Committee's supposed commitment to its mandate, how certain members who had pressed for a Committee session in New York in the past could now be against holding a three-day pre-sessional meeting in Geneva on the grounds that it would be too time-consuming and too costly. A decision not to hold a pre-sessional meeting would reflect badly on the Committee, the only treaty body that did not hold such meetings. Measures should be taken to strengthen the position of the Committee, which was increasingly in the public eye. Such a meeting should be carefully organized, with a well-prepared agenda, and should involve the country rapporteurs. Its purpose should be to streamline the Committee's work and encourage the States parties to send representatives to the Committee meetings.

22. On that subject, he questioned the Chairman's comment that the Committee would be swamped with work if all States parties submitted their reports on time: surely States parties should be encouraged to submit their reports on time, in compliance with their commitments under the Convention?

23. He endorsed the suggestion to hold a dialogue meeting with State party representatives; the comments made by Mr. Kjaerum in that regard had been very useful. The meeting should be timed to coincide with the meetings held to elect members of the Committee and State party representatives should be encouraged to attend and participate in frank discussions about a range of issues. He agreed that the agenda should include both questions of procedure and questions of substance; for example, globalization would be one topic that would encourage the participation of many States. Such a meeting would revitalize the Committee's dialogue with States parties, the public and NGOs and would give a boost to its work. It would also give the Committee an opportunity to improve its relations with certain States, including Australia.

24. Mr. AMIR endorsed the Chairman's proposals and strongly supported the points made by Mr. de Gouttes, notably about ensuring follow-up to the Committee's initiatives so as to ensure that all questions received due attention.

25. Mr. THIAM endorsed all of the Chairman's proposals, which were realistic and concrete; he hoped that they would be followed up with action. Regarding the question of difficulties of implementation raised by some members, he urged the Committee not to shy away from any such problems; its role after all was to overcome the obstacles that stood in the way of the realization of human rights. The Committee should put forward a clear outline of its financial requirements. If it did not try to find solutions to such problems, it would never make progress. He endorsed the proposal to hold a session in New York for those States parties not represented in Geneva.

26. Mr. SHAHI said that, while he endorsed the proposals, he was unsure about how effective they would be. Earlier efforts to hold a session in New York had failed because the secretariat had estimated that that would have required an additional $50,000; the cost was likely to be much higher today. Likewise, the proposal to hold a three-day pre-sessional meeting was unlikely to meet with a favourable reaction for financial reasons.

27. He expressed disappointment that States parties showed so little interest in the Committee and had failed to react to the Committee's recommendations. There had been no visible improvement in the reporting of States parties as a result of the recommendations and the Committee had been forced to repeat the same recommendations year after year. With reference to Mr. de Gouttes' comment on the early warning and urgent action procedure, he agreed that the Committee had lost sight of the procedure in recent years. A pre-sessional meeting could be very useful in reviewing whether a given situation warranted consideration by the Committee under the early warning and urgent action procedure.

28. Mr. VALENCIA RODRÍGUEZ said he was in favour of all three proposals. A pre-sessional meeting among certain Committee members would be very useful for the organization of work, for investigating the relationship of the Committee with other bodies and for preparing a list of issues to raise with the reporting States parties. Of course there would be budgetary implications, but other United Nations treaty bodies managed to finance pre-sessional meetings. In addition, both the meeting of the chairpersons of the human rights treaty bodies and the inter-committee meeting held in June 2002 had recommended that all treaty bodies should hold pre-sessional meetings. In his view, the Committee had sufficient grounds to request financing for such a meeting.

29. Although he endorsed the proposal to hold a session in New York for the benefit of States which did not have representation in Geneva, the additional cost might rule it out. However, it might be possible to arrange for the session to coincide with the meeting with States parties - all of which had representation in New York - thereby reducing the costs.

30. The CHAIRMAN said he would request the secretariat to prepare a statement outlining the budgetary implications of holding a 2003 session in New York and also an estimate of the cost of holding a three-day pre-sessional meeting of a working group consisting of five Committee members, one from each of the regional working groups. The Committee should further draft a fresh decision about holding a session in New York. One argument in favour of holding a session in New York was that it could be arranged to coincide with the Committee's meeting with States parties; another would be that it would enable States parties without representation in Geneva to attend. If the dialogue meeting could not be held in New York, it should be held in Geneva.

31. Mr. ABOUL-NASR recalled that early sessions of the Committee had all been held in New York. A request to hold either the second or the third session in Geneva had been refused at the time on the ground of financial implications and also because it would have been in breach of the Convention. He requested the secretariat to seek out the relevant decision of the legal adviser at the time.

32. The CHAIRMAN requested Mr. Thornberry to draft a new decision on the issue of holding a session in New York, taking into account the points raised during the discussion. He asked Mr. Valencia Rodríguez to formulate a decision on the three-day pre-sessional meeting consisting of five Committee experts.

STATEMENT BY THE SPECIAL RAPPORTEUR OF THE COMMISSION ON HUMAN RIGHTS ON THE RIGHT TO ADEQUATE HOUSING

33. Mr. KOTHARI (Special Rapporteur of the Commission on Human Rights on the right to adequate housing) said that the principle of non-discrimination had been central to his work. The International Convention on the Elimination of All Forms of Racial Discrimination was the only United Nations treaty to make an unambiguous mention of the phrase "right to housing" and he regularly made specific reference in his work to articles 3 and 5. He had been inspired by the Committee's General Recommendations XIX and XXVII, which elaborated on the non-discrimination provisions of the right to housing. In addition, the Committee's statement at the second United Nations Conference on Human Settlements in 1996 (Habitat II) had proved groundbreaking.

34. Referring to his very broad mandate, he said that in all areas special attention was paid to women and children. In his first report to the Commission in 2001 (E/CN.4/2001/51) he had stated that the human right to adequate housing was the right of every woman, man, youth and child to gain and sustain a secure home and community in which to live in peace and dignity. Clearly, that was only possible with non-discriminatory access to housing, land and services. He had consistently taken an approach based on the concept of the indivisibility of human rights.

35. In his 2002 report (E/CN.4/2002/59), he had identified two areas of thematic focus: first, he had put forward a framework for State obligations on discrimination, segregation and the right to adequate housing; and second, he had looked at the impact of the privatization of water on housing and land areas. He was currently investigating the impact of failed privatization schemes. His 2003 report would focus on forced evictions.

36. With reference to the Commission on Human Rights resolution concerning women's land, property and housing rights (E/CN.4/2002/L.4), he was currently preparing a report on the impact of gender-based discrimination and violence against women on land-related issues for the 2003 session of the Commission.

37. He had recently visited Romania to investigate the problem of the Roma populations who were facing intense discrimination in all sectors, but particularly with regard to housing and access to services. Other recent visits had included a visit to the Chiapas area of Mexico, where indigenous populations lived in poverty, and a visit to the occupied Palestinian territories where the targeting of the home was one of the principal means of dispossessing the Palestinians. The non-discrimination framework had been very useful in the analysis of those issues.

38. Part of his work involved attempting to institutionalize the right to adequate housing within the United Nations system. He worked closely with various other treaty bodies in their standard-setting work, in suggesting areas for general recommendations and general comments, and in assisting in the preparation of country examinations and the follow-up to concluding observations.

39. Racial discrimination in housing remained a problem across the world, affecting inter alia the rights of minorities, migrants and people living under occupation. He had attempted to include in the framework he had developed on discrimination and segregation not only racial discrimination but also other forms of discrimination, as it had become clear that poverty and economic marginalization also played a role.

40. To assist in the follow-up to recommendations and commitments made at the World Conference Against Racism, he had recommended in his 2002 report that Governments and other concerned parties should enact or strengthen legislative measures that prohibited racial discrimination in all areas of the public and private sectors, including housing, planning and land policies and provision of building materials, services and housing finance. In addition, he had recommended that States should repeal policies and programmes that promoted discriminatory access and that they should guarantee access to judicial remedies for violations of the right, such as forced evictions and deliberate denial of civic services, including reparations for damages suffered, in accordance with article 6 of the Convention. He had also urged States to undertake affirmative action to diminish, eliminate and compensate for conditions that caused or helped to perpetuate discrimination in the realization and retention of the right to adequate housing and to eliminate barriers to the enjoyment of the right to adequate housing that were disproportionately faced by ethnic and racial minorities and indigenous peoples living in life-threatening and health-threatening housing conditions; special attention needed to be given to particularly vulnerable groups.

41. There was a critical need to remove legal, administrative and social obstacles to women's rights to land ownership, with particular attention to women who faced double discrimination on grounds of disabilities, HIV/AIDS and minority or other vulnerable status, and to ensure that no child suffered from such discrimination. At the national level, it was important to coordinate inter-ministerial efforts in the area of housing. He was calling for the institutionalization of ethical housing and land use practices, especially in the preparation of city and regional master plans, which should provide for residents to enjoy the right to participate on the basis of non-discrimination and equality. He was also calling for strengthened efforts to monitor the living conditions of marginalized, racial and ethnic groups, particularly with regard to economic, cultural and social indicators. More research was needed.

42. He offered to collaborate with the Committee in its preparations for the consideration of States parties' reports and in the follow-up to concluding observations. He would also like to work with the Committee on convening a day of general discussion on housing, land, segregation and discrimination, and on the formulation of a general recommendation on article 5. He had prepared a questionnaire regarding the matter of women and housing and would welcome the Committee's contributions. He would also appreciate suggestions on other areas of its work that he might usefully be involved in. In that regard, he requested the Committee to appoint a member to liaise with him.

43. The CHAIRMAN said that it was clear from the remarks of the Special Rapporteur that his work was closely linked with the concerns of the Committee and with the issue of discrimination.

44. Mr. ABOUL-NASR said he welcomed the Special Rapporteur's visit, and expressed his willingness to cooperate with him in any way possible. Current events showed that all the serious violations of human rights occurring throughout the world were related to the question of discrimination.

45. Mr. AMIR said he would like to know how the Special Rapporteur was grappling with the matter of the right to housing in Palestine. Putting aside the political aspects of that question, it was unheard of, from the point of view of the right to housing, that a house could be built on land from which its rightful owners had been driven.

46. Mr. KJAERUM said he was interested in the matter of the justiciability of the right to housing, and in the ongoing discussion of that matter by the Committee on Economic, Social and Cultural Rights. He understood that case law regarding the right to housing was currently being compiled. He requested the Special Rapporteur to allow the Committee to consult his country reports: they would be especially useful to the country rapporteurs. He wondered whether the Special Rapporteur had found the Committee's concluding observations helpful in his work. Finally, he requested him to help the Committee to draw up a list of model questions for States parties with regard to the right to housing.

47. Mr. SHAHI said that the Committee could, under its mandate, consider the question of racial discrimination in housing, but could not consider the right to housing itself. The Special Rapporteur had defined his mandate in broad, ambitious terms: it would be interesting to know what resources States parties would need in order to provide housing on a non-discriminatory basis to disadvantaged groups, in particular since slums existed in all the great cities of the world, and what he felt was the impact of globalization on economic, social and cultural rights.

48. Mr. de GOUTTES inquired whether the Special Rapporteur had studied the responsibility of States and of the private sector in the construction of poor-quality housing in areas without facilities, and the creation of slums and ghettos that resulted from that practice.

49. Mr. PILLAI said he wondered whether the Special Rapporteur had examined the matter of discrimination against particular ethnic groups as the result of large-scale housing projects carried out by States parties, and whether he had discerned a pattern in the decisions of States parties to undertake such mega-projects, or in the impact of such projects on housing throughout the world.

50. Peoples from many countries and ethnic groups were moving into shantytowns and slums: he wondered if the Rapporteur had considered the positive impact of such population movements on integration. It would be useful to know whether and to what extent States parties were taking that phenomenon into account in their social programmes.

51. Mr. SICILIANOS agreed that the Special Rapporteur's country reports would be very useful for the Committee, in particular for country rapporteurs.

52. The CHAIRMAN said it should also be asked what the role of the intergovernmental organizations and financial organizations was in the housing problems of the world.

53. Mr. ABOUL-NASR inquired whether the Special Rapporteur was aware of any countries in which discriminatory housing practices were enshrined in domestic laws.

54. Mr. KOTHARI (Special Rapporteur of the Commission on Human Rights on the right to adequate housing) said that it would be difficult to make general recommendations about housing on the global level. The principle of non-discrimination in housing could, however, be useful for States, especially in their efforts to analyse data on housing and to resolve some of the related issues. He was attempting to construct a global legal understanding and framework, and would welcome the Committee's assistance.

55. An important element of descent-based discrimination was the targeting and destruction of homes in ethnic conflicts, which was a clear violation of the right to housing. There was no question that the occupation of Palestine was illegal, and that the occupied lands must be given back to the Palestinian people. He welcomed questions regarding land ownership, and was especially interested in the right to land in rural areas.

56. As to the matter of the justiciability of the right to housing, he was inspired by the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and felt that the kind of complaints received by that body would be highly informative for his work. In that regard, he was disappointed that progress on an optional protocol to the International Covenant on Economic, Social and Cultural Rights had been so slow.

57. The compilation of case law on housing was nearly complete, and would be published within the year by the Office of the High Commissioner for Human Rights. Jurisprudence in the matter of the right to housing was clearly growing. Moreover, surveys had shown that, under some 40 constitutions, one or another element of the right to housing was justiciable, such as, for instance, protection from forced eviction or the security of land tenure.

58. He had made three country visits during 2002, to Palestine, Romania and Mexico. Only the report on Palestine was currently available. The other two would be printed later in the year. He would welcome their use by the Committee. He would also be willing to assist in preparations for the examination of reports of States parties. Since States were apparently reluctant to provide information on discrimination in housing, the Committee should encourage the formulation of alternative reports: in that regard, civil society had an important role to play. He would be glad to help to develop a set of model questions.

59. There was much States could do to prevent discrimination in housing without significant resources: they could, for instance, prevent forced evictions and reduce insecurity. Governments were often eager to evict inner city populations and resettle them, although it was cheaper to upgrade residences. Such practices increased discrimination and segregation, since slums were places where integration occurred. It was also important to consider whether the manner of resettlement conformed to human rights principles.

60. He had been studying urbanization, and was developing specific recommendations on ethical housing and land policies. In Palestine and in many other countries, government planning practices were a chief means of displacing populations. In certain democratic countries, city and regional master plans created segregated housing patterns. He had been conversing with the World Bank, with regional development banks, and with inter-governmental agencies on the question of the privatization of services, which had clearly led to greater discrimination and segregation throughout the world.

61. The CHAIRMAN thanked the Special Rapporteur for his visit.

The meeting rose at 1 p.m.